

THE HON'BLE MS. JUSTICE G. ROHINI

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WRIT PETITION No. 13317 of 2005

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DATED: 24-11-2005

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Between:

Cuddapah District Scavenger Workers
Women Association, Premises No.14-215,
Dastagiripet, Proddatur-516 360,
Cuddapah District, represented by its
President, Smt. S. Vasanthamma Petitioner

AND

1. The Commissioner, A.P. Vaidya Vidhana
Parishad, Kendriya Sadan,
Sultanbazar, Hyderabad and two others
.....Respondents

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WRIT PETITION No. 13317 of 2005

ORDER:

This writ petition is filed seeking a declaration that the proceedings of the 3rd respondent-Medical Superintendent, Area Hospital, Andhra Pradesh, Vaidya Vidhana Parishad Proddatur, dated 27.04.2005 are arbitrary, illegal and against the spirit of G.O.Ms.No.30, M.A. & Urban Development (G2) Department, dated 18.01.2000.

The petitioner claims to be an association of Cuddapah District Scavenger Workers Women Association. It is claimed that in the G.O.Ms.No.30 M.A. Municipal Administration and Urban Development (G2) Department dated 18.01.2000, the Government directed to entrust the operation of the sanitation works to the society formed by the Sanitary workers union without participating in the tenders with a view to improve the efficiency in sanitation. It is alleged that in spite of the same, all the members of the petitioner-Society were removed on 01.04.2004 from the sanitation work and the same was entrusted to some third parties. Aggrieved by the said action, the petitioner-Society filed W.P.No.2246 of 2005 which was disposed of by this Court by order dated 22.03.2005 granting liberty to the petitioner-Society to file a representation before the respondents requesting to grant sanitation work in terms of the G.O.Ms.No.30 M.A. dated 18.01.2000 and if any such representation is made by the petitioner-Society, the same shall be considered in accordance with law. In

pursuance of the said order, it appears that the petitioner-Society made a representation and having considered the same, the third respondent passed the impugned order dated 27.04.2005 informing the petitioner-Society that their request for allotment of sanitation work cannot be considered since the first respondent has already approved for continuation of the present working society as per the recommendations of the Hospital Advisory Committee. It was also stated that G.O.Ms.No.30, M.A. is applicable only to Municipal Administration Department and the Department of Medical and Health is no way concerned with the said Government Order and the first respondent has been allotting the work only by inviting the tenders in terms of the guidelines issued by the A.P. Vaidya Vidhana Parishad, from time to time. The said order is under challenge in this writ petition.

On behalf of the respondents, a counter-affidavit has been filed denying the allegations made by the petitioner-Society and reiterating the stand taken in the impugned order that G.O.Ms.No.30, M.A. & Urban Development (G2) Department, dated 18.1.2000 is not applicable to other departments except Municipal Administration Department.

The learned Standing Counsel appearing for the first respondent has also placed reliance upon a decision of this Court in W.P.No.6057 of 2005 and Batch dated 29.07.2005. In the said batch of writ petitions, this Court has considered an identical question and having considered the nature and scope of G.O.Ms.No.581, dated 06.11.1996 as amended by G.O.Ms.No.30 M.A., dated 18.01.2000 held that the said Government orders were issued in relation to Municipalities/Municipal Corporations and have no application to Hospital Development Societies, which are issued by the Government in G.O.Ms.No.90, dated 17.04.2003. It is represented by the learned Standing Counsel that the said order has become final.

The learned Counsel for the petitioner-Society has not placed before this Court any other material to take a different opinion than that was expressed by the Court in the above said decision.

Accordingly, following the decision of this Court in the above Writ Petition No.6057 of 2005 and Batch, dated 29.07.2005 the writ petition is dismissed. No costs.

JUSTICE G. ROHINI

Dated: 24.11.2005

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The petitioner claims to be the owner of a plot situated in Survey No. 532 on Main Road of Yellareddy, admeasuring 640 square yards. It is stated that he made an application to the Gram Panchayat requesting grant of permission for construction of

a house in the said plot and accordingly, vide proceedings dated 19.11.2004, the Gram Panchayat, Yellareddy granted permission for construction. In pursuance thereof when the petitioner started construction, the 3rd respondent-Forest Range Officer, Yellareddy obstructed the construction and is interfering with his possession without following due process of law. Hence, this writ petition seeking a declaration that the action of the 3rd respondent in obstructing the construction of the house in Survey No.532 as per the approved plan of the Gram Panchayat, Yellareddy is arbitrary and illegal.

The 3rd respondent-Forest Range Officer, Yellareddy filed a counter-affidavit stating that the petitioner is not the owner of the plot in Survey No.532 as claimed by him and the construction said to have been granted by the Gram Panchayat was not in accordance with law since the same was granted without taking into consideration the factual aspects. It is further stated that the land in question belongs to the Forest Department and wherein a Forest Guard Quarters together with the court yard towards southern side is existing since 1954. It is also stated that the Divisional Forest Officer, Kamareddy filed an appeal before the District Panchayat Officer, Nizamabad against the permission granted by the Gram Panchayat, Yellareddy, dated 19.11.2004 and the District Panchayat Officer, Nizamabad had entertained the same and by order, dated 10.01.2005 granted stay of construction. The proceedings are still pending before the District Panchayat Officer, Nizamabad and the writ petition suppressing all the said facts is misconceived and cannot be entertained.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Forests.

As can be seen from the pleadings of the parties, it is clear that there is a dispute with regard to the title in respect of the land to an extent of 640 square yards situated in Survey No. 532. The only material placed by the petitioner before this Court is permission granted by the Gram Panchayat, Yellareddy for construction of the house vide proceedings dated 19.11.2004. The said permission said to have been granted by the Gram Panchayat cannot be made basis to record any finding as to the title. At any rate, it is neither possible nor proper for this Court to make any enquiry particularly when the matter involves several disputed questions of fact and no finding as to the title of the property in question can be recorded. It is for the parties to work out the appropriate civil remedy as available under law for declaration, if

they so choose. So far as the permission granted by the Gram Panchayat, Yellareddy vide proceedings dated 19.11.2004 is concerned, the matter has already been ceased by the District Panchayat Officer, Nizamabad by way of an appeal preferred by the Forest Department.

The learned Government Pleader states that the District Panchayat Officer, Nizamabad by order, dated 10.01.2005 granted stay of construction by the petitioner.

However, on behalf of the petitioner a reply affidavit has been filed stating that subsequently, the District Panchayat Officer has passed an order on 11.03.2005 closing the appeal on the ground that the writ petition is pending before this Court.

Though the said order has not been placed before this Court, having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with a direction to the District Panchayat Officer to re-open the matter to make the necessary enquiry after hearing the petitioner as well as the third respondent and to pass appropriate orders with regard to the sustainability of the permission granted by the Gram Panchayat, Yellareddy, vide proceedings dated 19.11.2004 Such an exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the petitioner shall not proceed with the construction of the land in question. No costs.

24.11.2005

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